

## Chapter 6

### POLICE REGULATIONS

#### Article 1. Dogs and Cats

##### §6-101 DOGS AND CATS; DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

AT LARGE. "At Large" shall be intended to mean off the property of his owner, keeper, or harborer, and not under control of a competent person. A dog shall be deemed to be under control and in restraint within the meaning of this ordinance when it is controlled by leash, at "heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets or within the property lines of its owner, keeper or harborer.

CAT. "Cat" shall be intended to mean both male and female cats.

DOG. "Dog" shall be intended to mean both male and female dogs.

KENNEL. "Kennel" shall be intended to mean any maintenance of four (4) or more dogs in excess of six (6) months of age, per family or residence. Kennels shall be maintained only where zoning regulations (Section 11-201) permit; Provided that a five (\$5.00) dollar permit fee shall be paid to the City Clerk for each kennel sought to be maintained.

OWNER. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, possessing or harboring a dog or cat or permitting a dog or cat to be or remain about his or its premises for five (5) days or longer.

SPAYED FEMALE. "Spayed female" shall be intended to mean any bitch which has been operated on to prevent conception.

##### §6-102 DOGS; LICENSE.

All dogs kept, harbored or maintained by their owners shall be licensed and registered by the age of six (6) months.

Dog licenses shall be issued annually by the City Clerk upon payment of a license tax of seven (\$7.00) dollars for each neutered male or spayed female and eleven (\$11.00) dollars for each unneutered male or unspayed female.

Licenses shall be issued by the City Clerk on and after the second (2nd) day of January of each year. Veterinarians issuing licenses for the City shall retain a fee of one (\$1.00) dollar per license to cover the cost of issuing said licenses. Said fee shall be deducted from the license tax payable to the City. On and after March first (1st) of each year all dogs without licenses shall be apprehended and impounded by the Police Department or the Animal Control Officer.

With the exception of rabies inoculations, the provisions of this section shall not be intended to apply to dogs whose owners are nonresidents temporarily within the City, nor to dogs brought into the City for the purpose of participating in any dog show, nor to seeing-eye dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

No license shall be issued by the City Clerk unless and until the dog shall have been vaccinated as prescribed

by this Article and a certificate of vaccination be presented and delivered to the City together with the application for the dog license. Such certificate of vaccination shall be executed by a registered veterinarian who shall certify as to the time, place and date of vaccination for rabies that he administered to the dog and describe the dog and owner of the dog in sufficient particulars for identification purposes. Said license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog.

**§6-102.01      DOG GUIDES, HEARING AID DOGS, AND SERVICE DOGS; EXEMPT FROM LICENSE TAX.**

Every dog guide for a blind or visually impaired person, hearing aid dog for a deaf or hearing-impaired person, and service dog for a physically limited person shall be licensed as required by the Municipal Code, but no license tax shall be charged upon a showing by the owner that the dog is a graduate of a recognized training school for dog guides, hearing aid dogs, or service dogs. Upon the retirement or discontinuance of the dog as a dog guide, hearing aid dog, or service dog, the owner of the dog shall be liable for the payment of the required license tax.

**§6-103                      DOGS; LICENSE TAGS.**

Upon the payment of the license fee, the City Clerk shall issue to the owner of a dog a license certificate and a metallic tag for each dog so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs so licensed and shall entitle the owner to keep or harbor the said dog until the thirty-first (31<sup>st</sup>) day of December following such licensing. In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the City Fremont Code Clerk shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee of fifty (50¢) cents for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the City Clerk to issue tags of a suitable design that are different in appearance every year.

**§6-104                      DOGS; PROCLAMATION.**

It shall be the duty of the Mayor whenever in his or her opinion the danger to the public safety from rabid dogs is great or imminent, to issue a proclamation ordering all persons owning, keeping, or harboring any dog to muzzle the same, or to confine it for a period of not less than thirty (30) days or more than ninety (90) days from the date of such proclamation, or until such danger is passed. The dogs may be harbored by any good and sufficient means in a house, garage, or yard on the premise wherein the said owner may reside. Upon issuing the proclamation it shall be the duty of all persons owning, keeping, or harboring any dog to confine the same as herein provided.

**§6-105                      DOGS; RUNNING AT LARGE.**

It shall be unlawful for the owner of any dog to allow such dog to run at large at any time within the corporate limits of the City. It shall be the duty of the Animal Control Officer to cause any dog found to be running at large within the City to be taken up and impounded.

**§6-106                      DOGS; CAPTURE IMPOSSIBLE.**

The Municipal Police and the Animal Control Officer shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.

**§6-107                      DOGS; VICIOUS.**

It shall be unlawful for any person to own, keep, or harbor any dog of a dangerous or ferocious disposition that habitually snaps or manifests a disposition to bite within the corporate limits of the City. If any vicious or dangerous dog is held, confined, or allowed to run at large within the corporate limits of the City, the Municipal Police and the Animal Control Officer shall have the authority to put the dog to death.

§6-108 DOGS; INTERFERENCE WITH POLICE.

It shall be unlawful for any person to hinder, delay, or interfere with any Municipal Policeman or Animal Control Officer who is performing any duty enjoined upon him by the provisions of this Article, or to break open, or in any manner directly or indirectly aid, counsel, or advise the breaking open of the animal shelter, any ambulance wagon, or other vehicle used for the collecting or conveying of dogs to the shelter.

§6-109 DOGS; KILLING AND POISONING.

It shall be unlawful to kill, or to administer, or cause to be administered, poison of any sort to a dog, or in any manner to injure, maim, or destroy, or in any manner attempt to injure, maim, or destroy any dog that is the property of another person, or to place any poison, or poisoned food where the same is accessible to a dog; provided, that this section shall not apply to Municipal Policemen or Animal Control Officer acting within their power of duty.

§6-110 DOGS; BARKING AND OFFENSIVE.

It shall be unlawful for any person to own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, or yelping shall annoy or disturb any neighborhood, or person, or which habitually barks at or chases pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the Municipality. Upon the written complaint of any person, filed with the City Clerk, that any dog owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, or if a Policeman or Animal Control Officer, or his agents hear or see a dog which by its actions is in violation of this section, the Police or the Animal Control Officer shall notify the owner to silence and restrain the dog. If such violations occur again, the Police or the Animal Control Officer shall issue a citation and the owner shall be fined in accordance with Article 5 of this Chapter. The provisions of this section shall not be construed to apply to the City Animal Shelter.

§6-111 DOGS; IMPOUNDING. (Repealed by Ord No 3807, 6/10/97)

§6-112 DOGS; HOSPITAL USE. (Repealed by Ord No 3490, 2/14/89)

§6-113 DOGS AND CATS; OWNER'S DUTIES.

If a dog is believed to have rabies or has been bitten by a dog suspected of having rabies, such dog shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two (2) weeks. The owner shall notify the Animal Control Officer of the fact that his dog has been exposed to rabies and at his discretion, the Animal Control Officer is empowered to have such dog removed from the owner's premises to a veterinary hospital and there placed under observation for a period of two (2) weeks at the expense of the owner.

It shall be unlawful for any person knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the City without the written permission of the Animal Control Officer. Every owner or other person, upon ascertaining a dog is rabid shall immediately notify the Animal Control Officer or a Policeman who shall either remove the dog to the pound or summarily destroy it.

The provisions of this section shall also apply to cats.

§6-114 DOGS; VACCINATION REQUIRED.

It shall be unlawful for the owner of any dog to keep, maintain, harbor, or possess a dog unless it shall have been vaccinated by a licensed veterinarian after four (4) months of age and every three (3) years thereafter with anti-rabies vaccine.

The inoculation period for rabies for such dog shall be current with the licensing year as provided in section 6-102.

**§6-115      DOGS; LIABILITY OF OWNER.**

It shall be unlawful for any person to allow a dog owned, kept, or harbored by him, or under his charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such dog, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained, except those damages induced or provoked by the person claiming to suffer such damages.

**Article 2. Animals Generally**

**§6-201      ANIMALS; RUNNING AT LARGE.**

It shall be unlawful for the owner, keeper, or harbinger of any animal, or any person having the charge, custody, or control thereof, to pen a horse, mule, cow, sheep, goat, swine, or other animal to be driven or run at large on any of the public ways and property, or upon the property of another, or to be tethered or staked, out in such a manner so as to allow such animal to reach or pass into any public way.

**§6-202      ANIMALS; BANNED FROM MUNICIPALITY.**

It shall be unlawful for any person to keep or maintain any horse, mule, sheep, cow, goat, swine, poultry, including chickens, ducks, or geese, or other livestock; in a residentially zoned area within the corporate limits, provided, that any such animals kept within the corporate limits by virtue of a grandfather clause shall not be kept or maintained within fifty (50') feet of any dwelling. This distance shall be measured from any outside edge of the enclosure or place wherein such animals are kept, maintained, or held to the occupied residence affected.

**§6-203      ANIMALS; CRUELTY.**

It shall be unlawful for any person purposely or knowingly to: Mistreat any animal by physical abuse; neglect any animal by failure to feed and water the animal; injure or kill any animal or order same to be destroyed by a licensed veterinarian or authorized authority any animal owned and belonging to another person, without the owner's permission; neglect any animal by failure to provide protection from the elements, such as shade in summer and enclosure protection in winter; and, neglect any animal by failure to remove filth accumulation where such animal is maintained.

**§6-204      ANIMALS; WILD AND DANGEROUS.**

No wild and dangerous animals may be kept within the corporate limits except such animals may be kept for exhibition purposes by circuses and educational institutions.

- (a) A dangerous animal is defined as: (1) any animal or species of animal which is not naturally tame or gentle, or which is of a wild nature or disposition, or which is capable of killing, inflicting serious injury to, or causing disease among human beings or domestic animals; or (2) Any specific animal declared to be dangerous by the City Council, Chief of Police or the Animal Control Officer.
- (b) As an illustration, not to be construed as a limitation, the following animals shall be deemed dangerous animals: lions, tigers, jaguars, leopards, cougars, lynx, ocelots, bobcats, bears, crocodiles, alligators, venomous and constricting snakes, wolves, foxes, badgers, wolverines and weasels.

**§6-205      ANIMALS; ENCLOSURES.**

All pens, cages, sheds, yards, or any other area or enclosure for the confinement of animals and fowls not

specifically barred within the corporate limits shall be kept in a clean and orderly manner so as not to become a menace or nuisance to the neighborhood in which the said enclosure is located.

**§6-206      FOWLS; RUNNING AT LARGE.**

It shall be unlawful for any person to allow poultry, chickens, turkeys, geese, or any other fowls to run at large within the corporate limits.

**§6-207      ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; DEFINITIONS.**

- A. ABANDON shall mean to leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;
- B. ANIMAL shall mean any vertebrate member of the animal kingdom except man. The term shall not include an uncaptured wild creature;
- C. CRUELLY MISTREAT shall mean to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise set upon any animal;
- D. CRUELLY NEGLECT shall mean to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;
- E. HUMANE KILLING shall mean the destruction of an animal by a method which causes the animal a minimum of pain and suffering; and
- F. LAW ENFORCEMENT OFFICER shall mean any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of the city or village, or any other public official authorized by a city to enforce state or local animal control laws, rules, regulations, or ordinances.

**§6-208      ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; LAW ENFORCEMENT OFFICER; POWERS; IMMUNITY.**

- (A) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may seek a warrant authorizing entry upon private property to inspect, care for, or impound the animal.
- (B) Any law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or cruelly mistreated may issue a citation to the owner as prescribed by law.
- (C) Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence.

**§6-209      ANIMALS; ABANDONMENT, NEGLECT, AND CRUELTY; PENALTY.**

A person who intentionally, knowingly or recklessly abandons, cruelly mistreats, or cruelly neglects an animal is guilty of an offense.

**§6-210      ANIMALS; PITTING; DEFINITIONS.**

Bearbaiting shall mean the pitting of any animal against a bear. Cockfighting shall mean the pitting of a fowl against another fowl.

Dogfighting shall mean the pitting of a dog against another dog. Pitting shall mean bringing animals together in combat.

**§6-211      ANIMALS; PITTING; PROHIBITED.**

No person shall knowingly promote, engage in, or be employed at dogfighting, cockfighting, bearbaiting, or pitting an animal against another. Nor shall any person knowingly receive money for the admission of

another person to a place kept for such purpose. Nor shall any person knowingly own, use, train, sell, or possess an animal for the purpose of animal pitting. Nor shall any person knowingly permit any act as described in this section to occur on any premises owned or controlled by him or her.

**§6-212      ANIMALS; PITTING; SPECTATORS PROHIBITED.**

No person shall knowingly and willingly be present at and witness as a spectator dogfighting, cockfighting, bearbaiting, or the pitting of an animal against another as prohibited in section 6-211. (Ref 28-1005 RS Neb.)

**§6-213      ANIMALS; ANIMAL WASTES.**

The owner of every animal other than a service animal as defined in the Americans With Disabilities Act, 42 U.S.C. § 1201 et seq., shall be responsible for the immediate removal and proper disposal of any excreta deposited by his/her animal(s) on public walks, recreation areas or private property.

**Article 3. Bees**

**§6-301      BEES; WHERE PROHIBITED.**

The keeping of bees within the City, two hundred (200') feet from any dwelling other than that of the owner of such bees, is hereby declared to be a nuisance and menace to the health and well being of citizens of the City. Therefore, it shall be unlawful for any person to keep a hive of bees within the zoning jurisdiction of City within two hundred (200') feet of any dwelling other than that of the owner of such bees.

**§6-302      BEES; FAILURE TO REMOVE.**

Anyone having custody of a hive or swarm of bees within two hundred (200') feet of any dwelling other than that of the owner of such bees after receiving notice from the Chief of Police, and failing to remove such hive of bees from within such distance of such dwelling or failing to remove the same from within the zoning jurisdiction of the City within twenty- four (24) hours after receiving notice, shall be deemed guilty of a misdemeanor.

**§6-303      BEES; AUTHORITY OF POLICE.**

After twenty-four (24) hours has elapsed from the time notice has been given to the person in whose custody any bees may be found, the Chief of Police is empowered and authorized at his option either to destroy or remove such bees from the prohibited zone.

**Article 4. Miscellaneous Misdemeanors**

**§6-401      MISDEMEANORS; CRIMINAL MISCHIEF.**

It shall be unlawful for any person to damage property of another intentionally or recklessly; or intentionally or recklessly tamper with property of another so as to endanger person or property; or intentionally or maliciously cause another to suffer pecuniary loss by deception or threat; provided, that the value of the property involved is under three hundred dollars (\$300.00).

**§6-402      MISDEMEANORS; INJURY TO TREES.**

It shall be unlawful for any person to purposely or carelessly, and without lawful authority, cut down, carry away, injure, break down, or destroy any fruit, ornamental, shade or other tree or trees standing or growing on any land belonging to another person or persons or on any public land in the corporate



limits. Any public service company desiring to trim or cut down any tree, except on property owned and controlled by them, shall make an application to the Director of Parks and Recreation to do so, and the written permit of the Director of Parks and Recreation in accordance with their decision to allow such an action shall constitute the only lawful authority on the part of the company to do so. (Ref 16-248, 18-806,28-519 RS Neb.)

**§6-403      MISDEMEANORS: FIRE EQUIPMENT.**

It shall be unlawful for any person who is not an active member of the Fire Department or qualified City employees to deface, destroy, handle, or loiter about the equipment and property of the Fire Department.

**§6-404      MISDEMEANORS: FIRE HOSE.**

It shall be unlawful for any person, without the consent of the Fire Chief, or the Assistant Fire Chief to drive any vehicle over the unprotected hose of the Fire Department at any time.

**§6-405      MISDEMEANORS: DRINKING, DRINKING ON PUBLIC PROPERTY; POSSESSION OF OPEN ALCOHOLIC BEVERAGE CONTAINER.**

- (1) Except when the Nebraska Liquor Control Commission has issued a license as provided in section 53-186(2) RS Neb., it is unlawful for any person to consume alcoholic liquor upon property owned or controlled by the state or any governmental subdivision thereof unless authorized by the governing bodies having jurisdiction over such property.
- (2) (a) It is unlawful for any person in the passenger area of a motor vehicle to possess an open alcoholic beverage container while the motor vehicle is located in a public parking area or on any highway in this Municipality.  
(b) Except as provided in section 53-186 RS Neb., it is unlawful for any person to consume an alcoholic beverage
  1. In a public parking area or on any highway in this Municipality, or
  2. Inside a motor vehicle while in a public parking area or on any highway in this Municipality.
- (c) For purposes of this division:
  1. ALCOHOLIC BEVERAGE means (i) beer, ale porter, stout, and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, (ii) wine of not less than one-half of one percent of alcohol by volume, or (iii) distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced. ALCOHOLIC BEVERAGE does not include trace amounts not readily consumable as a beverage;
  2. HIGHWAY means a road or street including the entire area within the right-of-way;
  3. OPEN ALCOHOLIC BEVERAGE CONTAINER means any bottle, can, or other receptacle:
    - (i) That contains any amount of alcoholic beverage; and
    - (ii) A. That is open or has a broken seal; or  
B. The contents of which are partially removed; and
  4. PASSENGER AREA means the area designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including any compartments in such area. PASSENGER AREA does not include the area behind the last upright seat of such motor vehicle if the area is not normally occupied by the driver or a passenger and the motor vehicle is not equipped with a trunk.

It shall be unlawful for any person, knowing that he is not licensed or privileged to do so, to:

- A. Enter or secretly remain in any building or occupied structure, or any separately secured or occupied portion thereof; or
- B. Enter or remain in any place as to which notice against trespass is given by:
  - 1. Actual communication to the actor; or
  - 2. Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
  - 3. Fencing or other enclosure manifestly designed to exclude intruders.
- C. This section shall be in full force and effect for private parking lots regarding violations of fire codes, traffic regulations, offenses against public morals, unlawful assembly and trespass and with the same authority as public thoroughfares, public parking lots and other public areas, provided:
  - 1. The owners, or their lessees of such private parking lots, shall make a written request of the City to apply this section to their lots, describing them, and in addition shall post their lots with appropriate signs stating: "No Trespassing, Parking for Customers Only." Said request shall be accompanied by a fifty-five dollar (\$55.00) application fee to cover publication costs and administrative expenses.
  - 2. To remove a private parking lot from the application of this section, the owners, or their lessees of such private parking lots, shall make a written request of the City to remove the parking lot from this section, describing them, and remove signs restricting or limiting parking. Said request shall be accompanied by a fifty-five dollar (\$55.00) application fee to cover publication costs and administrative expenses.

The section shall apply on all of the following areas:

Animal Medical Clinic, 1935 North Bell

Arby's Restaurant, 2040 North Bell

Big Lots, 1700 East 23<sup>rd</sup>

Blackie's, 746 North Broad

Bomgaars, 1830 East 23<sup>rd</sup>

Boschult Engineering, 1145 West Military

Boschult Engineering, 340 West 22<sup>nd</sup>

Brokenicky Jewelers, 321 North Main

China Moon, 610 East 23<sup>rd</sup>

Cigarette & Snack Outlet, 521 North Broad

City of Fremont –

400 East Military and adjacent parking lot

Christensen Field, 1710 West 16<sup>th</sup>

Keene Memorial Library, 1030 N. Broad

Parking lot at Military and Park

Parking lot on southwest corner of Eighth and C

Parking lot on southwest corner of Eighth and Union

Parking lot across from Auditorium (Lots 2 tr 8, Block. 84, O.T.)



Parking lot north of the Auditorium  
Police Department, Eighth and Park  
Utility Plant #1, Eighth and Main  
Columbus Federal Parking Lot, 2300 Laverna  
Dairy Queen, 2222 North Broad  
Denny's Liquor, 16th and Bell Center Complex Parking Lot  
Dodge County -  
    Courthouse, 435 North Park  
    Extension Service, 1206 West 23<sup>rd</sup>  
    Judicial Center, 428 North Broad  
Dodge County Project Head Start, 1024 West 23<sup>rd</sup>  
Don Peterson and Associates, 620 East 23<sup>rd</sup>  
Eastridge Animal Clinic, 2345 North Laverna  
Essex Square Apartments, 825 N. Lincoln  
FBC Complex, 301 East Sixth  
Falcone Medical Center, 1935 East Military  
First State Bank, 1005 East 23<sup>rd</sup> Street  
Fontanelle Hybrids, 2230 North Bell  
Food 4 Less, 1531 North Bell  
Fremont Area Chamber, 605 North Broad  
Fremont Cablevision, 1780 East 23<sup>rd</sup> Street  
Fremont First Central Federal Credit Union, 1715 North Bell  
Fremont First Central Federal Credit Union, 2100 North Bell  
Fremont Mall Parking Lot, 860 East 23<sup>rd</sup> Street  
Fremont Medical Clinic, 2350 N. Clarkson  
Fremont National Bank and Trust Company, 801 East 23<sup>rd</sup>  
Fremont Rental Inc., 2347 North Laverna  
Gas N Shop, 1533 North Bell  
Gateway Plaza, 19th and Bell Streets  
General Store, 333 West 23<sup>rd</sup>  
Glass House, 517 East 23<sup>rd</sup>  
Goodwill Industries Inc., 2415 E. 23<sup>rd</sup>  
Green Key II, 1440 North Bell  
Green's Greenhouse and Treasure House, Green Key Plaza, Bell Street at 14<sup>th</sup>  
Gringo's, 1950 N. Bell  
H & R Block, 1728-1740 North Bell  
Jacobs Center Complex, 1915 & 1925 East 8<sup>th</sup>

Jensen Tire #10, 245 E. Military  
Krafka Law Offices, 1010 N. Bell  
Kwik Shop, 710 North Broad  
Longacres, Inc., 150 E. Military  
Low Income Ministry, 549 North H  
May, Dr. Gary, 1689 East 23<sup>rd</sup> Avenue South  
May Museum, 1643 North Nye  
McDonalds, 435 East 23<sup>rd</sup>  
Miller Pharmacy, 322 East 22<sup>nd</sup>  
Nebraska Softball Association, 620 E. 23<sup>rd</sup>  
Oriental Trading Company, 2407 Colorado Avenue  
Overland Products, 1687 Airport Road  
P & H Electric, 1210 East 17th Street  
Parkview Center Parking Lot, 1900 East Military  
Parkview Professional Center, 1835 East Military  
Pay Day USA, 1023 East 23<sup>rd</sup>  
Prairie Fields, 350 West 23<sup>rd</sup>  
Plum Grove Professional Building, 415 E. 23<sup>rd</sup> Street  
Property at 410 North Bell  
Property at 1640 North Bell  
Property at 1670 North Bell  
Property at 2100 North Bell  
Property at 1755 North Bell  
Property at 723 North Broad  
Property at 1604 North Clarkson  
Health Care Professionals, Inc. -  
2360 North Clarkson  
2340 North Clarkson  
2350 North Clarkson  
710 Reynolds Road  
Vacant lot north of 710 Reynolds Road  
730 Reynolds Road  
Property at 3210 North Clarkson  
Property at 2442 North Colorado  
Property at 3350 East Elk Lane  
Property at 204 North H  
Property at 205 North H

Property at 220 North H  
Property at 225 North H  
Property at 224 North I  
Property at 2600 North Laverna  
Property at 2700 North Laverna  
Property at 2511 Rademakers Way  
Property at 2779 Rademakers Way  
Property at 520 West Linden  
Property at 601 West Linden  
Property at 626 North Main  
Property at 1605 East Military  
Property at 1640 West Military  
Property at 1955, 1957 & 1959 East Military  
Property at 734 North Park  
Property at 317 S William  
Property at 303 West 3<sup>rd</sup>  
Property at 152 East 6<sup>th</sup>  
Property at 1152 East 16<sup>th</sup>  
Property at 1135 East 19<sup>th</sup>  
Property at 650 West 21<sup>st</sup>  
Property at 652 West 21<sup>st</sup>  
Property at 510 East 22<sup>nd</sup>  
Property at 520 West 23<sup>rd</sup>  
Property at 655 West 23<sup>rd</sup>  
Property at 845 West 23<sup>rd</sup>  
Property at 633 East 23<sup>rd</sup>  
Property at 700 East 23<sup>rd</sup>  
Property at 707 East 23<sup>rd</sup>  
Property at 847-849 East 23<sup>rd</sup>  
Property at 1220 East 23<sup>rd</sup>  
Property at 1249 East 23<sup>rd</sup>  
Property at 1550 East 23<sup>rd</sup> Avenue North  
Property at 1682 East 23<sup>rd</sup> Avenue North  
Property at 1684 East 23<sup>rd</sup> Avenue North  
Property at 1688 East 23<sup>rd</sup> Avenue North  
Property at 1690 East 23<sup>rd</sup> Avenue North  
Property at 1700 East 23<sup>rd</sup> Avenue North

Property at 1710 East 23<sup>rd</sup> Avenue North  
Property at 1720 East 23<sup>rd</sup> Avenue North  
Property at 1730 East 23<sup>rd</sup> Avenue North  
Property on Southeast corner of 23<sup>rd</sup> & Clarkson  
Property at 544 East 30<sup>th</sup>  
Property at 506 East 30<sup>th</sup>  
Property at 454 East 30<sup>th</sup>  
Property at 404 East 30<sup>th</sup>  
Property at 1437 East 23<sup>rd</sup>  
Runza Restaurant, 640 North Park  
Runza Restaurant, 1201 East 23<sup>rd</sup>  
Salem Lutheran Church, 401 East Military  
Sawyer Gas N Wash, 1915 North Bell  
Shaw, Hull & Navarrette, 637 North Park Avenue  
Sid Dillon Used Cars, 1665 North Bell  
Siebler & Schmeichel, 1910 North Bell  
Sounds, Priority Signs & Payless Shoe Store, 845 East 23<sup>rd</sup>  
Staples Plaza, 23<sup>rd</sup> and Bell  
Subway Inc., 549 East 23<sup>rd</sup>  
Sun-Kist Cleaners, 18<sup>th</sup> and Bell Streets  
Taco John's, 1704 North Bell  
Taylor & Martin, Inc., 1865 Airport Road  
Taylor Quik-Pik, Inc., 2010 Bell Street  
Thrifty Lube, 2210 North Bell  
T.O. Haas Tire, 505 East 23<sup>rd</sup>  
US Bank Drive-In Bank, 240 E. Military  
US Bank Main Bank, 210 E. Military  
US Bank Suburban Bank, 1615 E. 23<sup>rd</sup> Street  
Whitmer Welding, 555 West 23<sup>rd</sup>  
Wisner Sports Supply Inc., 1830 N. Bell

**§6-407      MISDEMEANORS: POSTED ADVERTISEMENTS.**

It shall be unlawful for any person to wrongfully and maliciously tear, deface, remove, or cover up the posted advertisement or bill of any person, firm, or corporation when said bill or advertisement is rightfully and lawfully posted, and the same remains of value.

**§6-408      MISDEMEANORS: DISCHARGE OF FIREARMS.**

It shall be unlawful for any person, except an officer of the in the discharge of his official duty, to fire or discharge any gun, pistol, or other fowling piece within the City; provided nothing herein shall be construed to

apply to funeral services or officially sanctioned public celebrations; and, provided further, nothing herein shall be construed to prevent a firearm test range as an accessory use as a part of a business when said firearm test range is used between the hours of 7:00 o'clock a.m. to 7:00 o'clock p.m. only for test firing of firearms by a business engaged in the manufacture, service or repair of firearms and provided further that said firearms test range shall not be used for any recreational or competition purposes and provided further that noise of the discharge of the firearms cannot be heard on the exterior of the building in which said firearm test range is located and provided further that the building housing the firearm test range shall be in an area zoned commercial or heavy industrial.

**§6-409      MISDEMEANORS: SLINGSHOTS, AIRGUNS, GUNS.**

It shall be unlawful for any person, except an officer of law in the discharge of his or her official duty, to discharge slingshot, airgun, BB gun or the like loaded with pellets, "BBs", rock or other dangerous missiles, within the City or within the boundaries of any City-owned park beyond the limits of the City, provided that the provisions of this section shall not be construed to prohibit such activities at officially sanctioned competitions or educational programs which have been approved in advance by the City Council

**§6-410      MISDEMEANORS: DISCHARGING A FIREARM OR WEAPON FROM ANY PUBLIC HIGHWAY, ROAD OR BRIDGE.**

It shall be unlawful for any person to discharge any firearm or weapon using any form of compressed gas as a propellant from any public highway, road or bridge in this State.

**§6-411 & §6-412 REPEALED APRIL 13, 2010 ORDINANCE NO. 5161**

**§6-413      MISDEMEANORS: DISTURBING THE PEACE.**

It shall be unlawful for any person to intentionally disturb the peace and quiet of any person, family or neighborhood.

**§6-414      MISDEMEANORS: DISORDERLY CONDUCT.**

It shall be unlawful for any person to engage in conduct or behavior which disturbs the peace and good order of the City by clamor or noise, intoxication, drunkenness, fighting, using of obscene or profane language within the City limits of Fremont, or is otherwise indecent or disorderly conduct or lewd or lascivious behavior.

**§6-415      MISDEMEANORS: WINDOW PEEPING.**

It shall be unlawful for any person not engaged in a lawful business or calling or activity that requires his or her presence upon the real property and residence of another person to look, peep or try to see into or through any window, door, or other opening of the residence of any other person.

**§6-416      MISDEMEANORS: LITTERING.**

- (1) Any person who deposits, throws, discards, or otherwise disposes of any litter on any public or private property or in any waters commits the offense of littering unless:
  - (a) Such property is an area designated by law for the disposal of such material and such person is authorized by the proper public authority to so use such property; or
  - (b) The litter is placed in a receptacle or container installed on such property for such purpose.
- (2) The word litter as used in this section shall mean all waste material susceptible of being dropped, deposited, discarded or otherwise disposed of by any person upon any property in the state but does not include wastes of primary processes of farming or manufacturing. Waste material as used in this section shall mean any material appearing in a place or in a context not associated with that material's function or origin.
- (3) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle or watercraft in violation

of this section, the operator of such motor vehicle or watercraft commits the offense of littering.

**§6-417      MISDEMEANORS: APPLIANCES IN YARD.**

It shall be unlawful for any person to permit a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property unless he shall first remove all doors and make the same reasonably safe.

**§6-418      MISDEMEANORS: OBSTRUCTION OF PUBLIC WAYS.**

It shall be unlawful for any person to erect, maintain, or suffer to remain on any street or public sidewalk a stand, wagon, display, or other obstruction inconvenient to, or inconsistent with, the public use of the same.

**§6-419      MISDEMEANORS: OBSTRUCTING WATER FLOW.**

It shall be unlawful for any person to stop or obstruct the passage of water in a street gutter, culvert, water pipe, or hydrant.

**§6-420      MISDEMEANORS: DESTRUCTION, MOVING OF BARRICADES.**

Whenever the City of Fremont, its contractor, authorized representative, or permittee, has restricted the use of or closed the whole or any portion of any street, alley, or property for the protection of the public or that of that street, alley, or property from damage during construction, improvement, or maintenance operations, and the City of Fremont, its contractor, authorized representative, or permittee has erected or posted suitable barriers, obstructions, warnings, notices, signs of direction, or warning devices, or has provided a flagman to give directions, or any combination thereof, any person who willfully or intentionally enters such restricted or closed area, or any person who moves, alters, damages, or destroys the devices erected or posted thereon, without the permission of the party authorized to restrict or close such area, shall be guilty of a misdemeanor.

**§6-421      MISDEMEANORS: DISEASED OR DYING TREES.**

Any tree that is in a diseased, dying, or dead condition which may present a hazard to life or property is hereby declared a public nuisance and shall be removed from the private property on which they are located upon notice by the Director of Parks and Recreation or his designee. For the purpose of carrying out the provisions of this section, the Director of Parks and Recreation or his designee shall have the authority to enter on private property to inspect the trees thereon. In the event that the trees are diseased or dead, notice shall be given to the owner of the property by mail or personal service and such notice shall allow the said owner ten (10) days to remove the said tree or trees. In the event that the owner is a nonresident, notice shall be made by publication in a newspaper of general circulation, or by mail if the name and address is known. If the tree or trees are not removed after a period of ten (10) days, the Director of Parks and Recreation Department is authorized and directed to order the removals to be done and the cost plus an administrative fee of one hundred dollars (\$100.00) shall be chargeable to the property owner. If the owner fails to reimburse the City after being properly billed, the City Council shall order the costs be assessed against the property and certified by the City Clerk to the County Treasurer to be collected in the manner prescribed by law. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. Failure to remove the said trees shall be deemed to be a misdemeanor.

**§6-422      MISDEMEANORS: CURFEW.**

It shall be unlawful for any minor under the age of fifteen (15) years to ride in or operate any vehicle in or upon any street, alley, or other public place, or to loiter, wander, stroll, loaf, or play in or upon any of the streets, alleys, or other public places between the hours of eleven o'clock (11 :00) P.M. of any day and six o'clock (6:00) A.M. of the following day unless accompanied by a parent, guardian or other adult person having the care, custody or control of said minor, or the minor is engaged in lawful employment or is on an emergency errand; provided, when an activity of the kind normally attended by minors under fifteen (15) years, such as school or church sponsored function, terminates after, or less than one (1) hour prior to eleven o'clock (11 :00) P.M., the curfew shall commence one (1) hour after the termination of such activity. Any minor who violates



this section shall be taken to the Police Station, where the Policeman shall notify the parents of the minor and said parents shall come to the Police Station to pick up the minor.

**§6-423      MISDEMEANORS; LOTTERY; PROHIBITIONS AND PENALTIES.**

It shall be unlawful for a person, firm or corporation to conduct, operate, or participate in any lottery, other than as a player, except as provided in section 9-127 R.R.S. Neb., subdivisions 9 and 10 of section 28-1101 R.R.S. Neb., section 9-1401.01 R.R.S. Nebraska or section 9-601 et. seq. of R.R.S. Neb. Moreover, a person, firm or corporation shall be deemed as committing the offense of possession of prohibited lottery devices, if other than as a player, he or she knowingly possesses any writing, paper, instrument, mechanical or electronic device which is of a kind commonly used in the operation or promotion of a lottery other than bingo as defined in section 9-127, R.R.S. Neb., gift enterprises as defined in subdivision 9 of section 28-1101, R.R.S. Neb., raffle as defined in subdivision 10 of section 28-1101, R.R.S. Neb., or lottery by sale of "pickle card" as defined in section 9-140.01, R.R.S. Neb. Any person, firm or corporation convicted of violating this ordinance shall be punished as follows:

For a first offense such person, firm or corporation shall be fined in any amount up to five hundred dollars (\$500.00) and/or imprisonment for not more than three (3) months.

For a second offense a fine of not less than two hundred fifty (\$250.00) dollars nor more than one thousand dollars (\$1,000.00) and/or imprisonment for up to three (3) months.

For a third or any subsequent offense a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and/or not more than six (6) months incarceration.

**§6-424      TOBACCO; POSSESSION BY MINOR UNLAWFUL.**

A. Except as provided herein, it shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products.

B. Exceptions: It shall not be unlawful for any person under the age of eighteen (18) years to:

- (1) Possess tobacco products under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home; or,
- (2) Sell or handle any unopened container of tobacco products in the course of his or her employment by a tobacco licensee; or,
- (3) Possess or purchase tobacco products while under the direct supervision of a law enforcement officer for the purpose of testing or enforcing compliance with statutes, laws or ordinances governing the sale of tobacco products.

C. Tobacco Products; Defined: Tobacco products shall be defined to mean any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.

D. Penalty: Persons convicted of unlawfully possessing tobacco products shall be punished by a monetary fine of not more than \$100.00.

**§6-425      MISDEMEANORS; VIOLENCE ON A SERVICE DOG; INTERFERENCE WITH A SERVICE DOG.**

- (1) A person commits the offense of violence on a service dog when he or she (a) intentionally injures, harasses, or threatens to injure or harass or (b) attempts to intentionally injure, harass, or threaten a dog that he or she knows or has reason to believe is a dog guide for a blind or visually impaired person, a hearing aid dog for a deaf or hearing-impaired person, or a service dog for a physically limited person.
- (2) A person commits the offense of interference with a service dog when he or she (a) intentionally impedes,

interferes, or threatens to impede or interfere or (b) attempts to intentionally impede, interfere, or threaten to impede or interfere with a dog that he or she knows or has reason to believe is a dog guide for a blind or visually impaired person, a hearing aid dog for a deaf or hearing-impaired person, or a service dog for a physically limited person.

- (3) Evidence that the defendant initiated or continued conduct toward a dog as described in subsection (1) or (2) of this section after being requested to avoid or discontinue such conduct by the blind, visually impaired, deaf, hearing-impaired, or physically limited person being served or assisted by the dog shall create a rebuttable presumption that the conduct of the defendant was initiated or continued intentionally.
- (4) For purposes of this section:
- (a) Blind person means a person with totally impaired vision or with vision, with or without correction, which is so severely impaired that the primary means of receiving information is through other sensory input, including but not limited to braille, mechanical reproduction, synthesized speech, or readers;
  - (b) Deaf person means a person with totally impaired hearing or with hearing, with or without amplification, which is so severely impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to lip reading, sign language, finger spelling, or reading;
  - (c) Hearing-impaired person means a person who is unable to hear air conduction thresholds at an average of 40 decibels or greater in the person's better ear;
  - (d) Physically limited person means a person having limited ambulatory abilities, including but not limited to having a permanent impairment or condition that requires the person to use a wheelchair or to walk with difficulty or insecurity to the extent that the person is insecure or exposed to danger; and
  - (e) Visually impaired person means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

#### **§6-426      MISDEMEANORS: VOLUME CONTROL.**

No person shall play, use, operate or permit to be played, used or operated, any radio, tape recorder, cassette player, compact disc (CD) player, or other machine or device for reproducing sound, if it is located in or on:

- (1) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare; or any motor vehicle on a public street, highway or public space unless the volume of amplified sound shall be so controlled that it will not be audible for a distance in excess of one hundred (100) feet from the source and so that the volume is not unreasonably great and the noise, raucous, jarring, disturbing or a nuisance to persons within the area of audibility; or
- (2) Residential property, whether a unit of a multiple-family residential dwelling or single-family dwelling structure, unless the volume of amplified sound shall be so controlled that it will not be audible in any adjoining unit. Provided, however, that actual notice from the occupant of the adjoining residence to the occupant of the property containing the source of amplified sound shall be a necessary element under this subsection.

#### **§6-427      MISDEMEANORS: PUBLIC NUDITY FOR COMMERCIAL PURPOSES.**

- (1) It shall be unlawful for any person to intentionally expose his or her genitals, pubic area, buttocks, or the human female breast, including the nipple or any portion below the nipple with less than a full opaque covering while employed in providing any service, product, or entertainment in any business or commercial establishment.
- (2) It shall also be unlawful for any person to aid, abet, assist or direct another person to intentionally expose

his or her genitals, pubic area, buttocks, or the human female breast, including the nipple or any portion below the nipple with less than a full opaque covering while employed in providing any service, product, or entertainment in any business or commercial establishment.

- (3) In addition to the penalties set forth in §6-501 violations of this section may be abated and suppressed by injunctive or other equitable relief as allowed by law.
- (4) The prohibitions herein set forth are not intended to extend to any expression of opinion or the performance of a bona fide play, ballet, or drama protected by the First Amendment to the Constitution of the United States or by Article I, § 5 of the Constitution of the State of Nebraska.

#### §6-428 PURPOSE AND INTENT.

The City Council of Fremont, Nebraska is enacting this Ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The Council is authorized to enact this Ordinance pursuant to its police powers.

The Council finds that graffiti is a public nuisance and a blighting factor, which is destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain and multiply. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The City Council intends, through enacting this Ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.

#### §6-429 DEFINITIONS.

For the purposes of enacting this Ordinance, the following words shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (a) Aerosol paint container means any aerosol container that is adapted or made for the purpose of applying spray paint or other substances capable of defacing property.
- (b) Broad-tipped marker means any felt tip indelible marker or similar implement with a flat or angled writing surface that, at its broadest width, is greater than one-fourth (1/4th) of an inch, containing ink or other pigmented liquid that is not water soluble.
- (c) Etching equipment means any tool, device, or substance that can be used to make permanent marks on any natural or man-made surface.
- (d) Graffiti means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, applied, attached, adhered, painted, or engraved on or otherwise affixed to any surface of public or private property by person or persons using any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed to be a public nuisance by the City Council.
- (e) Graffiti implement means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of making, scarring or leaving a visible mark on any natural or man-made surface.
- (f) Paint stick or graffiti stick means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.
- (g) Person means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

Defacement. It shall be unlawful for any person to write, paint, draw or apply, in any manner, any inscription, figure, or mark of any type (commonly known and referred to as "graffiti") on any public or private building or other real or personal property including, but not limited to, natural objects such as rocks and trees, owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof, or owned by any person, firm, or corporation, unless permission of the owner or operator of the property has been obtained.

- (a) Fines: Any person violating the provisions of this division shall be punished in accordance with §6-501 of the Code with a minimum fine of one hundred fifty dollars (\$150.00) for the first offense; two hundred fifty dollars (\$250.00) for the second offense; and three hundred dollars (\$300.00) for each subsequent offense.
- (b) Restitution: In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court. In the case of a minor, the parents or legal guardian shall be jointly and individually liable with the minor to make the restitution.
- (c) Community Service: In lieu of, or as part of, the penalties specified in this Section, a minor or adult may be required to perform community service as described by the court:
  - (1) The minor or adult shall perform at least 30 hours of community service.
  - (2) At least one parent or guardian of the minor shall be in attendance a minimum of 50 percent of the period of assigned community service.
  - (3) The entire period of community service shall be performed under the supervision of a community service provider approved by the court.
  - (4) Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the minor or adult, including community service that involves graffiti removal.

§6-432 GRAFFITI DECLARED A NUISANCE.

- (a) The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Code.
- (b) It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

§6-433 REMOVAL OF GRAFFITI BY PERPETRATOR.

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Director of the Department of Public Works, or as directed by the City Administrator. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

§6-434 NOTICE OF REMOVAL.

If graffiti is not removed by the perpetrator according to the preceding Section, the graffiti shall be removed pursuant to the following provisions:

- (a) Whenever the City Administrator or his/her designee determines that graffiti exists on any public and

private buildings, structures or places which are visible to any person utilizing any public right-of-way in this city, whether this is a road, parkway, alley, or otherwise, and that seasonal temperatures permit the painting of exterior surfaces, the City Administrator or his/her designee shall cause a notice to be issued to the property owner or person(s) in possession or charge of the property to abate such nuisance. The property owner shall have seven (7) days after the date of the notice to remove or paint over the graffiti, or the conditions will be subject to abatement by the city. If the property owner elects to paint over the graffiti, the paint used to obliterate the graffiti shall be as close as practicable to background color(s).

(b) The notice to abate graffiti pursuant to this section shall consist of a written notice to be served upon the owner(s) of the affected premises, as such owner's name and address appears on the last property tax assessment rolls of the county. If there is no known address for the owner, the notice shall be sent in care of the property address to persons in possession or in charge of the property. The notice required by this Section may be served in any one of the following manners:

1. By personal service on the owner, occupant or person in charge or control of the property.
2. By registered or certified mail addressed to the owner at the owner's last known address. If this address is unknown, the notice will be sent to the property address. The notice shall be substantially in the following form:

NOTICE OF INTENT TO REMOVE GRAFFITI

Date: \_\_\_\_\_

NOTICE IS HEREBY GIVEN that you are required by law at your expense to remove or paint over the graffiti located on the property commonly known as: \_\_\_\_\_, Fremont, Nebraska, which is visible to the public view, within seven (7) days after the date of this notice. If you fail to do so, City employees or private contractors employed by the City will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of the abatement by the City employees or its private contractors will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objections, comments interest in said matters or requests for a hearing are hereby notified to submit a request for a hearing to the City Administrator of the City of Fremont, Nebraska, or his/her designee within five (5) days from the date of this notice. At the conclusion of the seven (7) day period, if no hearing has been requested, the City may proceed with the abatement of the graffiti inscribed on your property, at your expense, without further notice.

City of Fremont, Nebraska  
A Municipal Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

**§6-435      REMOVAL BY CITY.**

Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the City Administrator or his/her designee approves, then the City Administrator, or his/her designee is hereby authorized and directed to cause the graffiti to be abated by city forces or private contract, and the city or its private contractor is expressly authorized to enter upon the premises for such purposes. All reasonable efforts to minimize damage from such entry shall be taken by the city, and any paint used to obliterate graffiti shall be as close as practicable to background color(s). If the City Administrator provides for the removal of the graffiti or other inscribed material, he shall not authorize nor undertake to provide for the painting or repair of any more extensive area than that where the graffiti or other inscribed material is located.

**§6-436      CITY'S COSTS DECLARED LIEN.**

Any and all costs incurred by the city in the abatement of the graffiti nuisance under the provisions of this division shall constitute a lien against the property upon which such nuisance existed.

**§6-437      PRIVATE PROPERTY CONSENT FORMS.**

Property owners in the city may consent in advance to city entry onto private property for graffiti removal purposes. The city will make forms for such consent available.



- (1) Definitions: For purposes of this Section, the following definitions shall apply:
- (A) Child care facility means a facility licensed pursuant to the Child Care Licensing Act;
  - (B) School means a public, private, denominational, or parochial school which meets the requirements for state accreditation or approval;
  - (C) Reside means to sleep, live, or dwell at a place, which may include more than one location, and may be mobile or transitory;
  - (D) Residence means a place where an individual sleeps, lives, or dwells, which may include more than one location, and may be mobile or transitory;
  - (E) Sex offender means an individual who has been convicted of a crime listed in Nebr. Rev. Stat. Section 29-4003 and who is required to register as a sex offender pursuant to the Sex Offender Registration Act;
  - (F) Sexual predator means an individual who is required to register under the Sex Offender Registration Act, who has committed an aggravated offense as defined in Nebr. Rev. Stat. Section 29-40001.01 and who has victimized a person eighteen years of age or younger.
- (2) PROHIBITED LOCATION OF RESIDENCE. It is unlawful for any sexual predator to reside within five hundred feet from a school or child care facility.
- (3) MEASURE OF DISTANCE. For purposes of determining the minimum distance separation, the distance shall be measured by following a straight line from the outer property line of the residence to the nearest outer boundary line of the school or child care facility.
- (4) PENALTIES. A person who violates this section shall be punished as provided in Section 6-501.
- (5) EXCEPTIONS. This ordinance shall not apply to a sexual predator who:
- (A) Resides within a prison or correctional or treatment facility operated by the state or a political subdivision.
  - (B) Established a residence before July 1, 2006, and has not moved from that residence; or
  - (C) Established a residence after July 1, 2006, and the school or child care facility triggering the restriction was established after the initial date of the sexual predator's residence at that location.

#### **Article 5. Penal Provision**

#### **§6-501 VIOLATION; PENALTY.**

Any person who violates any of the prohibitions or provisions of any Article or section of this Chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular Article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one thousand dollars (\$1,000.00) and/or imprisonment for any length of time not to exceed three (3) months, in the discretion of the court.